

SENATE, No. 3932

STATE OF NEW JERSEY

219th LEGISLATURE

INTRODUCED JUNE 10, 2021

Sponsored by:

Senator BOB SMITH

District 17 (Middlesex and Somerset)

Senator JOSEPH F. VITALE

District 19 (Middlesex)

SYNOPSIS

Revises certain funding provisions for financial assistance and grants from Hazardous Discharge Site Remediation Fund.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 6/15/2021)

1 AN ACT concerning financial assistance and grants from the
2 Hazardous Discharge Site Remediation Fund and amending
3 P.L.1993, c.139.

4

5 **BE IT ENACTED** by the Senate and General Assembly of the State
6 of New Jersey:

7

8 1. Section 27 of P.L.1993, c.139 (C.58:10B-5) is amended to
9 read as follows:

10 27. a. (1) Except as provided in section 4 of P.L.2007, c.135
11 (C.52:27D-130.7), financial assistance from the remediation fund
12 may only be rendered to persons who cannot establish a remediation
13 funding source for the full amount of a remediation. Financial
14 assistance pursuant to this act may be rendered only for that amount
15 of the cost of a remediation for which the person cannot establish a
16 remediation funding source. The limitations on receiving financial
17 assistance established in this paragraph (1) shall not limit the ability
18 of municipalities, counties, redevelopment entities authorized to
19 exercise redevelopment powers pursuant to section 4 of P.L.1992,
20 c.79 (C.40A:12A-4), persons who are not required to establish a
21 remediation funding source for that part of the remediation
22 involving an unrestricted use remedial action, persons performing a
23 remediation in an environmental opportunity zone, or persons who
24 voluntarily perform a remediation, from receiving financial
25 assistance from the fund.

26 (2) Financial assistance rendered to persons who voluntarily
27 perform a remediation or perform a remediation in an
28 environmental opportunity zone may only be made for that amount
29 of the cost of the remediation that the person cannot otherwise fund
30 by any of the authorized methods to establish a remediation funding
31 source.

32 (3) Financial assistance rendered to persons who do not have to
33 provide a remediation funding source for the part of the remediation
34 that involves an unrestricted use remedial action may only be made
35 for that amount of the cost of the remediation that the person cannot
36 otherwise fund by any of the authorized methods to establish a
37 remediation funding source.

38 b. Financial assistance may be rendered from the remediation
39 fund to (1) owners or operators of industrial establishments who are
40 required to perform remediation activities pursuant to P.L.1983,
41 c.330 (C.13:1K-6 et al.), upon closing operations or prior to the
42 transfer of ownership or operations of an industrial establishment,
43 (2) persons who are liable for the cleanup and removal costs of a
44 hazardous substance pursuant to P.L.1976, c.141 (C.58:10-23.11 et

EXPLANATION – Matter enclosed in bold-faced brackets **[thus]** in the above bill is
not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 seq.), and (3) persons who voluntarily perform a remediation of a
2 discharge of a hazardous substance or hazardous waste.

3 c. Financial assistance and grants may be made from the
4 remediation fund to a municipality, county, or redevelopment entity
5 authorized to exercise redevelopment powers pursuant to section 4
6 of P.L.1992, c.79 (C.40A:12A-4), for real property: (1) on which it
7 holds a tax sale certificate; (2) that it has acquired through
8 foreclosure or other similar means; or (3) that it has acquired, or in
9 the case of a county governed by a board of chosen freeholders, has
10 passed a resolution or, in the case of a municipality or a county
11 operating under the "Optional County Charter Law," P.L.1972,
12 c.154 (C.40:41A-1 et seq.), has passed an ordinance or other
13 appropriate document to acquire, by voluntary conveyance for the
14 purpose of redevelopment, for renewable energy generation or for
15 recreation and conservation purposes. Financial assistance and
16 grants may only be awarded for real property on which there has
17 been a discharge or on which there is a suspected discharge of a
18 hazardous substance or hazardous waste.

19 d. (Deleted by amendment, P.L.2017, c.353)

20 e. Grants may be made from the remediation fund to qualifying
21 persons who propose to perform a remedial action that would result
22 in an unrestricted use remedial action.

23 f. Grants may be made from the remediation fund to
24 municipalities, counties, and redevelopment entities authorized to
25 exercise redevelopment powers pursuant to section 4 of P.L.1992,
26 c.79 (C.40A:12A-4), for the preliminary assessment, site
27 investigation, remedial investigation, and remedial action for real
28 property where there is a discharge or suspected discharge of a
29 hazardous substance or hazardous waste within a brownfield
30 development area. Grants may only be made for a remedial action
31 pursuant to this subsection when there is a confirmed discharge of a
32 hazardous substance or hazardous waste. Grants made pursuant to
33 this subsection for a remedial action may not exceed 75 percent of
34 the total costs of the remedial action. An ownership interest in the
35 contaminated property shall not be required in order for a
36 municipality, county, or redevelopment entity authorized to exercise
37 redevelopment powers pursuant to section 4 of P.L.1992, c.79
38 (C.40A:12A-4) to receive a grant for a preliminary assessment, site
39 investigation, and remedial investigation for real property where
40 there is a discharge or suspected discharge of a hazardous substance
41 or hazardous waste in a brownfield development area.
42 Notwithstanding the limitation on the total amount of financial
43 assistance and grants that may be awarded in any one year pursuant
44 to subsection b. of section 28 of P.L.1993, c.139 (C.58:10B-6), the
45 authority may award an additional amount of financial assistance
46 and grants in any one year, of up to **[\$1,000,000]** \$2,000,000 , to

1 any one municipality, county, or redevelopment entity for the
2 remediation of property in a brownfield development area.

3 (cf: P.L.2017, c.353, s.1)

4
5 2. Section 28 of P.L.1993, c.139 (C.58:10B-6) is amended to
6 read as follows:

7 28. a. Except for moneys deposited in the remediation fund for
8 specific purposes, and as provided in section 4 of P.L.2007, c.135
9 (C.52:27D-130.7), financial assistance and grants from the
10 remediation fund shall be rendered for the following purposes. A
11 written report shall be sent to the Senate Environment and Energy
12 Committee, and the Assembly Environment and Solid Waste
13 Committee, or their successors at the end of each calendar quarter
14 detailing the allocation and expenditures related to the financial
15 assistance and grants from the fund.

16 (1) Moneys shall be allocated for financial assistance to persons,
17 for remediation of real property located in a qualifying municipality
18 as defined in section 1 of P.L.1978, c.14 (C.52:27D-178);

19 (2) Moneys shall be allocated to: (a) municipalities, counties, or
20 redevelopment entities authorized to exercise redevelopment
21 powers pursuant to section 4 of P.L.1992, c.79 (C.40A:12A-4), for:

22 (i) projects in brownfield development areas pursuant to
23 subsection f. of section 27 of P.L.1993, c.139 (C.58:10B-5),

24 (ii) matching grants up to a cumulative total amount from the
25 fund of ~~【\$2,500,000】~~ \$10,000,000 per year of up to 75 percent of
26 the costs of the remedial action for projects involving the
27 redevelopment of contaminated property for recreation and
28 conservation purposes, provided that the use of the property for
29 recreation and conservation purposes is included in the
30 comprehensive plan for the development or redevelopment of
31 contaminated property, up to 75 percent of the costs of the remedial
32 action for projects involving the redevelopment of contaminated
33 property for renewable energy generation, or up to 50 percent of the
34 costs of the remedial action for projects involving the
35 redevelopment of contaminated property for affordable housing
36 pursuant to P.L.1985, c.222 (C.52:27D-301 et al.),

37 (iii) grants for preliminary assessment, site investigation or
38 remedial investigation of a contaminated site,

39 (iv) financial assistance or grants for the implementation of a
40 remedial action, or

41 (v) financial assistance for remediation activities at sites that
42 have been contaminated by a discharge of a hazardous substance or
43 hazardous waste, or at which there is an imminent and significant
44 threat of a discharge of a hazardous substance or hazardous waste,
45 and the discharge or threatened discharge poses or would pose an
46 imminent and significant threat to a drinking water source, to
47 human health, or to a sensitive or significant ecological area; or

1 (b) persons for financial assistance for remediation activities at
2 sites that have been contaminated by a discharge of a hazardous
3 substance or hazardous waste, or at which there is an imminent and
4 significant threat of a discharge of a hazardous substance or
5 hazardous waste, and the discharge or threatened discharge poses or
6 would pose an imminent and significant threat to a drinking water
7 source, to human health, or to a sensitive or significant ecological
8 area.

9 Except as provided in subsection f. of section 27 of P.L.1993,
10 c.139 (C.58:10B-5), financial assistance and grants to
11 municipalities, counties, or redevelopment entities authorized to
12 exercise redevelopment powers pursuant to section 4 of P.L.1992,
13 c.79 (C.40A:12A-4) may be made for real property: (1) on which
14 they hold a tax sale certificate; (2) that they have acquired through
15 foreclosure or other similar means; or (3) that they have acquired,
16 or, in the case of a county governed by a board of chosen
17 freeholders, have passed a resolution or, in the case of a
18 municipality or a county operating under the "Optional County
19 Charter Law," P.L.1972, c.154 (C.40:41A-1 et seq.), have passed an
20 ordinance or other appropriate document to acquire, by voluntary
21 conveyance for the purpose of redevelopment, or for recreation and
22 conservation purposes. Financial assistance and grants may only be
23 awarded for real property on which there has been or on which there
24 is suspected of being a discharge of a hazardous substance or a
25 hazardous waste. Grants and financial assistance provided pursuant
26 to this paragraph shall be used for performing preliminary
27 assessments, site investigations, remedial investigations, and
28 remedial actions on real property in order to determine the existence
29 or extent of any hazardous substance or hazardous waste
30 contamination, and to remediate the site in compliance with the
31 applicable health risk and environmental standards on those
32 properties. No financial assistance or grants for a remedial action
33 shall be awarded until the municipality, county, or redevelopment
34 entity authorized to exercise redevelopment powers pursuant to
35 section 4 of P.L.1992, c.79 (C.40A:12A-4), actually owns the real
36 property, provided that a matching grant for 75 percent of the costs
37 of a remedial action for a project involving the redevelopment of
38 contaminated property for recreation and conservation purposes, or
39 a matching grant for 50 percent of the costs of a remedial action for
40 a project involving the redevelopment of contaminated property for
41 affordable housing pursuant to P.L.1985, c.222 (C.52:27D-301 et
42 al.) may be made to a municipality, county, or redevelopment entity
43 authorized to exercise redevelopment powers pursuant to section 4
44 of P.L.1992, c.79 (C.40A:12A-4) even if it does not own the real
45 property and a grant may be made to a municipality, county, or
46 redevelopment entity authorized to exercise redevelopment powers
47 pursuant to section 4 of P.L.1992, c.79 (C.40A:12A-4) for a
48 remediation in a brownfield development area pursuant to

1 subsection f. of section 27 of P.L.1993, c.139 (C.58:10B-5) even if
2 the entity does not own the real property. No grant shall be awarded
3 for a remedial action for a project involving the redevelopment of
4 contaminated property for recreation or conservation purposes
5 unless the use of the property is preserved for recreation and
6 conservation purposes by conveyance of a development easement,
7 conservation restriction or easement, or other restriction or
8 easement permanently restricting development, which shall be
9 recorded and indexed with the deed in the registry of deeds for the
10 county. No grant shall be awarded pursuant to this paragraph to a
11 municipality, a county, or a redevelopment entity authorized to
12 exercise redevelopment powers pursuant to section 4 of P.L.1992,
13 c.79 (C.40A:12A-4) unless that entity has adopted by ordinance or
14 resolution a comprehensive plan specifically for the development or
15 redevelopment of contaminated or potentially contaminated real
16 property in that municipality or the entity can demonstrate its
17 commitment to the authority that the subject real property will be
18 developed or redeveloped within a three-year period from the
19 completion of the remediation. Until adoption of the criteria
20 required pursuant to paragraph (8) of subsection a. of section 30 of
21 P.L.1993, c.139 (C.58:10B-8), the authority shall use the criteria
22 provided in this paragraph in determining the award of grants from
23 the remediation fund;

24 (3) Moneys shall be allocated for financial assistance to persons
25 who voluntarily perform a remediation of a hazardous substance or
26 hazardous waste discharge;

27 (4) (Deleted by amendment, P.L.2017, c.353)

28 (5) Moneys shall be allocated for (a) financial assistance to
29 persons who own and plan to remediate an environmental
30 opportunity zone for which an exemption from real property taxes
31 has been granted pursuant to section 5 of P.L.1995, c.413 (C.54:4-
32 3.154), or (b) matching grants for up to 25 percent of the project
33 costs to qualifying persons, municipalities, counties, and
34 redevelopment entities authorized to exercise redevelopment
35 powers pursuant to section 4 of P.L.1992, c.79 (C.40A:12A-4), who
36 propose to perform a remedial action for the implementation of an
37 unrestricted use remedial action except that no grant awarded
38 pursuant to this paragraph may exceed \$250,000; and

39 (6) At least 30 percent of the moneys in the remediation fund
40 shall be allocated for grants to a municipality, county, or
41 redevelopment entity authorized to exercise redevelopment powers
42 pursuant to section 4 of P.L.1992, c.79 (C.40A:12A-4) for the
43 preliminary assessment, site investigation, remedial investigation,
44 or remedial action of a site, not located in a brownfield
45 development area, that has been contaminated by a discharge or a
46 suspected discharge of a hazardous substance or hazardous waste as
47 authorized in this subsection. The remainder of the moneys in the
48 remediation fund shall be allocated for any of the purposes

1 authorized in this section. For the purposes of paragraph (5) of this
2 subsection, "qualifying persons" means any person who has a net
3 worth of not more than \$2,000,000 and "project costs" means that
4 portion of the total costs of a remediation that is specifically to
5 implement an unrestricted use remedial action.

6 b. Loans issued from the remediation fund shall be for a term
7 not to exceed ten years, except that upon the transfer of ownership
8 of any real property for which the loan was made, the unpaid
9 balance of the loan shall become immediately payable in full. The
10 unpaid balance of a loan for the remediation of real property that is
11 transferred by devise or succession shall not become immediately
12 payable in full, and loan repayments shall be made by the person
13 who acquires the property. Loans to municipalities, counties, and
14 redevelopment entities authorized to exercise redevelopment
15 powers pursuant to section 4 of P.L.1992, c.79 (C.40A:12A-4),
16 shall bear an interest rate equal to 2 points below the Federal
17 Discount Rate at the time of approval or at the time of loan closing,
18 whichever is lower, except that the rate shall be no lower than 3
19 percent. All other loans shall bear an interest rate equal to the
20 Federal Discount Rate at the time of approval or at the time of the
21 loan closing, whichever is lower, except that the rate on such loans
22 shall be no lower than five percent. Financial assistance and grants
23 may be issued for up to 100 percent of the estimated applicable
24 remediation cost, except that the cumulative maximum amount of
25 financial assistance which may be issued to a person, in any
26 calendar year, for one or more properties, shall be \$500,000.
27 Financial assistance and grants to any one municipality, county, or
28 redevelopment entity authorized to exercise redevelopment powers
29 pursuant to section 4 of P.L.1992, c.79 (C.40A:12A-4) may not
30 exceed **[\$2,000,000]** \$3,000,000 in any calendar year except as
31 provided in subsection f. of section 27 of P.L.1993, c.139
32 (C.58:10B-5). Grants to a municipality, county, or redevelopment
33 entity authorized to exercise redevelopment powers pursuant to
34 section 4 of P.L.1992, c.79 (C.40A:12A-4) may be for up to 100
35 percent of the total costs of the preliminary assessment, site
36 investigation, or remedial investigation subject to the provisions of
37 section 5 of P.L.2017, c.353 (C.58:10B-6.2). Grants to a
38 municipality, a county, or a redevelopment entity authorized to
39 exercise redevelopment powers pursuant to section 4 of P.L.1992,
40 c.79 (C.40A:12A-4) may not exceed 75 percent of the total costs of
41 the remedial action at any one site. Repayments of principal and
42 interest on the loans issued from the remediation fund shall be paid
43 to the authority and shall be deposited into the remediation fund.

44 c. No person, other than a qualified person planning to use an
45 unrestricted use remedial action for the cost of the remedial action,
46 a person performing a remediation in an environmental opportunity
47 zone, or a person voluntarily performing a remediation, shall be
48 eligible for financial assistance from the remediation fund to the

1 extent that person is capable of establishing a remediation funding
2 source for the remediation as required pursuant to section 25 of
3 P.L.1993, c.139 (C.58:10B-3).

4 d. The authority may use a sum that represents up to 2 percent
5 of the moneys issued as financial assistance or grants from the
6 remediation fund each year for administrative expenses incurred in
7 connection with the operation of the fund and the issuance of
8 financial assistance and grants.

9 e. Prior to March 1 of each year, the authority shall submit to
10 the Senate Environment and Energy Committee and the Assembly
11 Environment and Solid Waste Committee, or their successors, a
12 report detailing the amount of money that was available for
13 financial assistance and grants from the remediation fund for the
14 previous calendar year, the amount of money estimated to be
15 available for financial assistance and grants for the current calendar
16 year, the amount of financial assistance and grants issued for the
17 previous calendar year and the category for which each financial
18 assistance and grant was rendered, the amount of remediation costs
19 expended for each site for the previous calendar year for which
20 financial assistance or a grant has been approved and the balance
21 remaining on each financial assistance or grant, and any suggestions
22 for legislative action the authority deems advisable to further the
23 legislative intent to facilitate remediation and promote the
24 redevelopment and use of existing industrial sites.

25 (cf: P.L.2017, c.353, s.2)

26
27 3. This act shall take effect immediately and shall apply to any
28 applicable applications that are pending as of the effective date of
29 this act.

30 31 32 STATEMENT

33
34 This bill changes the laws governing financial assistance and
35 grants for the remediation of contaminated sites from the Hazardous
36 Discharge Site Remediation Fund (fund).

37 Specifically, the bill increases the annual cap on the maximum
38 amount of financial assistance and grants that may be issued from
39 the fund to a municipality, county, or redevelopment entity from \$2
40 million to \$3 million. Notwithstanding that limitation, in
41 brownfield development areas, the bill would increase the
42 additional amount that may be awarded to a municipality, county or
43 redevelopment entity from \$1 million to \$2 million. The bill also
44 increases the cumulative annual cap of matching grants that may be
45 awarded from the fund to municipalities, counties, and
46 redevelopment entities for projects involving the redevelopment of
47 contaminated property for recreation and conservation purposes,
48 renewable energy generation, or affordable housing from \$2.5

1 million to \$10 million. The bill would take effect immediately and
2 would apply to any applicable applications that are pending as of
3 the bill's effective date.

4 This bill is intended to alleviate the current backlog of
5 applications to the Hazardous Discharge Site Remediation Fund
6 grant program by increasing the amount the State can disburse each
7 year from the fund. The above-mentioned caps were established at
8 their current amounts by P.L.2017, c.353.